

HOUSE BILL NO. 81

INTRODUCED BY J. ANDERSEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ESTABLISHMENT OF A PROGRAM FOR TESTING FOR THE ILLEGAL USE OF ALCOHOL, TOBACCO, AND DRUGS BY STUDENTS IN GRADES 6 THROUGH 12 WHO ARE ENGAGED IN EXTRACURRICULAR ACTIVITIES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Alcohol, tobacco, and drug testing of students. (1) The purpose of this section is to enhance the protection of persons under 18 years of age, as allowed by Article II, section 15, of the Montana constitution, by seeking to prevent students from harming themselves and others involved in extracurricular activities as a result of the consumption of harmful substances.

(2) For each school year for which funds are appropriated by the legislature to the superintendent of public instruction for distribution to the school districts for operation of a testing program, each elementary and high school district shall establish a program for testing for the illegal use of alcohol, tobacco, and drugs by students in grades 6 through 12 who are engaged in extracurricular activities. The program must comply with rules adopted under subsection (8).

(3) Each student in grades 6 through 12 must, each school year, be tested during the first 2 weeks of participation in an extracurricular activity. Following the initial tests, 10% of the students in each extracurricular activity must be randomly tested during the course of the activity during each school year. A student initially tested for one extracurricular activity may not later be initially tested for another during the same school year.

(4) Each student's parents or guardian is entitled to a copy of the test results and, if a test is positive, is entitled to an additional test by an independent facility of the parents' or guardian's choice. If the additional test is positive, it must be paid for by the requestor of the test, and if it is negative, it must be paid for by the school district.

(5) A student testing positive for the presence of illegally used alcohol, tobacco, or drugs must be suspended from any extracurricular activities, except for practices for upcoming events, for a 2-week

1 period and must be retested as part of the random 10% testing program if the student returns to full
2 participation in an extracurricular activity at the end of the 2-week period. A student who tests positive
3 twice during a school year must be suspended from all participation in extracurricular activities, including
4 practices, during the remainder of the school year.

5 (6) The superintendent of public instruction may assist and advise a school district in the
6 establishment of its program.

7 (7) The school district may not charge a student or the student's parents or guardian for any
8 expense related to testing.

9 (8) The superintendent of public instruction shall adopt rules implementing this section. The rules
10 must include but are not limited to provisions relating to:

11 (a) definitions, including but not limited to definitions of alcohol, tobacco, drugs, illegal use, and
12 extracurricular activities;

13 (b) types of tests and testing procedures;

14 (c) qualifications and training of testing personnel;

15 (d) laboratories used to process tests;

16 (e) the rights of tested students and their parents or guardian;

17 (f) the resolutions of disputes over tests, including a comparison and balancing of a second,
18 negative test with a first, positive test; and

19 (g) confidentiality, use, and disclosure of test results.

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21 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2001.

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